EVALUATING THE CONTRADICTIONS BETWEEN DISCIPLINARY AND JUDICIAL SANCTIONS IMPOSED ON MIDDLE AND HIGH SCHOOL STUDENTS USING PROHIBITED SUBSTANCES

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ABSTRACT
Research indicates that early initiation into substance use significantly contributes to the development of substance use disorders. This highlights the importance of legal regulations and preventive measures concerning minors who use substances or suffer from substance use disorders. This study aims to evaluate the deterrent effect of disciplinary sanctions imposed on middle and high school students engaged in substance use, while also examining their potential inconsistency with judicial sanctions applied to the same behavior.First, the study discusses why substance use disorder, which is recognized as a brain disease, cannot be effectively prevented through punitive disciplinary or judicial measures. It then emphasizes the inconsistency in Article 31 of the Turkish Criminal Code, which exempts minors from criminal liability due to age and instead mandates security measures, while simultaneously allowing the most severe disciplinary sanction within the education system—school transfer.The study stresses the need to prioritize rehabilitative and supportive approaches over punitive ones, as research shows that disciplinary sanctions are ineffective in addressing substance use disorders among children. Findings also indicate that punishment increases behavioral problems in students. In Turkish law, rather than penalizing substance dependence, judicial measures emphasize supervised freedom and rehabilitation.Accordingly, it is essential that legal principles such as reduced criminal responsibility and the best interests of the child be reflected in disciplinary practices. Teachers and parents should receive in-service training to recognize substance-related behaviors and to guide children toward rehabilitation. Finally, instead of implementing school transfer sanctions under current Ministry of National Education regulations, prioritizing rehabilitation-oriented policies would provide a more effective and child-centered approach.
Keywords: Substance use disorder, child, rehabilitation, guidance, disciplinary sanction, judicial sanction

Introduction

Substance use disorder is defined as a neurological disease characterized by the continuous desire to consume a substance due to its pleasurable effects and the discomfort experienced in its absence, accompanied by certain behavioral disorders (Uzbay & Yüksel, 2003). Research shows that substance use mostly begins during adolescence. Studies indicating that 75% of individuals who start using substances at an early age develop substance use disorders (NIDA, 2014; Turkish Parliamentary Research Commission Report, 2008) point to the importance of preventing substance use starting from childhood.

Lahey (2022) states that 50% of children who first try drugs and alcohol in the 8th grade develop addiction throughout their lives, and that the average age of initiation into drug and alcohol use in the United States is 13, negatively affecting students' development and learning (Lahey & Lahey, 2021). In Türkiye, the prevalence of substance use among children under the age of 18 is also increasing. The 658% increase in substance use rates among children under the age of 11 in 2024 compared to 2009 is particularly striking (EGM, 2024).

A study conducted in 2016 reported that while the proportion of adolescents applying to Bakırköy Mental and Neurological Diseases Hospital for substance use problems was 31.4% in 2011, this rate increased to 68.6% by 2014 (Doksat et al., 2016). Within the scope of the European School Survey Project on Alcohol and Other Drugs (ESPAD), research conducted with high school students in Türkiye and 35 other European countries revealed significant increases in substance use among Turkish students (Mokinaro et al., 2020). According to ESPAD 2024 data, the prevalence of illicit substance use among individuals aged 15–34 is 34.6% in Czechia, 28% in France, 27% in Italy, and 25.6% in the Netherlands (EUDA, Statistical Bulletin 2024). The fact that the average age of individuals presenting to the emergency department of Ankara University Faculty of Medicine due to substance use is 15.3 is alarming. The use of toxicological data in this study further increases its significance.

Research indicating that substance use rates among adolescents have increased over the years in Türkiye, the United States, and some European countries (Heitzeg, Hardee, & Beltz, 2018) necessitates the implementation of urgent measures starting from early childhood. Adolescence is a challenging period in human development. During this period, since the frontal lobe of the brain is not yet fully developed, adolescents may have difficulty complying with rules and may exhibit increased risky behaviors. With the addition of substance use, serious problems may arise in students' neurological structures, certain personality traits, behaviors, and relationships with family members and peers (Önen, Sargın, & Kahraman, 2023).

In a study evaluating 90 research studies conducted on substance addiction in Türkiye, adolescence was identified as the most significant risk factor. This was followed by gender, school dropout, peer environment, family life, substance use within the family, criminal history, place of residence, and experiences of physical and sexual abuse

(Öztürk, Kırlıoğlu & Kıraç, 2015). Awareness of all these risk factors is important for the prevention of substance addiction.

The aim of this study is to discuss the deterrent effect of disciplinary sanctions envisaged for students with substance use disorders at the middle and high school levels and to evaluate their contradiction with judicial sanctions prescribed for the same act, while offering alternative suggestions. In this context, the study first discusses why substance use disorder, which is a health problem, cannot be prevented through disciplinary or judicial punishments. It then focuses on the contradiction between the fact that children who should not be criminally punished due to age under Article 31 of the Turkish Criminal Code are nevertheless subjected to the most severe disciplinary penalty"school transfer"at the middle and high school levels. The study aims to contribute to practitioners by identifying alternative solutions instead of punishment in the prevention of substance use disorders.

Punishment of Students with Substance Use Disorders in Schools

It is of great importance to take measures to ensure that children never encounter substances. However, despite all precautions taken, the disciplinary punishment of children who use substances or are addicted to them at school constitutes a serious problem. This is because substance use disorder is accepted as a brain disease (Uzbay & Yüksel, 2003). It is not scientifically possible to prevent a disease through punishment.

In many countries around the world and in Türkiye, adults who use substances are directed toward rehabilitation rather than being subjected to judicial punishment. In contrast, the absence of regulations in the disciplinary system for children that prioritize rehabilitation for the same act represents a significant contradiction. In a study conducted with children and adolescents receiving inpatient treatment, it is highly promising that 63.3% of 90 individuals did not relapse into substance use following treatment.

For these reasons, children and adolescents who use substances or have substance use disorders should be directed toward treatment rather than being punished. Punishing children who are already unwilling to attend school due to substance use disorder may lead to their complete disengagement from school and the worsening of the problem. Moreover, it has been observed that 67% of children aged between 12 and 18 who were receiving treatment for substance addiction at ÇEMATEM (Child and Adolescent Substance Addiction Treatment Center) had received disciplinary sanctions at school; however, these sanctions proved ineffective (Kardaş & Kardaş, 2023).

Legal Regulations Regarding Substance Use Among Middle and High School Students in Türkiye and the Contradiction Between Disciplinary and Judicial Sanctions

According to Article 55-c-16 of the Ministry of National Education Regulation on Preschool and Primary Education Institutions, students in the 6th, 7th, and 8th grades who commit the act of "using alcohol or addictive substances" are to be punished with the most severe sanction, namely "school transfer." Although Article 56 of the same regulation includes factors such as the student's age, general condition inside and outside school, academic achievement, and participation in social and cultural activities among the criteria to be considered in determining sanctions, there is no explicit provision stating that children who use substances or have substance use disorders should not be punished.

Similarly, Article 164-2-k of the Ministry of National Education Secondary Education Institutions Regulation stipulates that high school students who "possess or use intoxicating harmful substances" shall be subject to "short-term suspension from school for 1 to 5 days," meaning that the student is deprived of all educational and extracurricular activities during the penalty period. Furthermore, Article 164-3-i of the same regulation prescribes the sanction of "school transfer" for students who "possess or use addictive harmful substances." Although an amendment made in 2015 to Article 168-4 of the regulation (Amendment: 1.7.2015–29403 Official Gazette) introduced the provision that "students who engage in behaviors and acts requiring disciplinary action may be subjected to rehabilitative practices based on a report from the school guidance service or guidance and research center and a decision of the school administration," no provision has been introduced stating that students who use addictive substances should not be punished. In other words, the "school transfer penalty" continues to exist as a sanction for substance use.

Under Article 191 of the Turkish Criminal Code, adults who use stimulant or narcotic substances are subject to imprisonment ranging from two to five years. However, it is stipulated that the initiation of public prosecution may be postponed for a period of five years, during which a probation measure shall be applied for at least one year, and treatment may be imposed if deemed necessary.

Considering that addiction to illicit substances is a brain disease, even adults are not directly punished but are instead subjected to probation and treatment. In contrast, it constitutes a significant contradiction that a child—especially between the ages of 10 and 12—who bears no criminal responsibility due to age is subjected to the most severe disciplinary punishment. Article 31 of the Turkish Criminal Code states: "Children who have not completed the age of 12 at the time of committing the act shall have no criminal responsibility. No criminal prosecution shall be initiated against these individuals; however, security measures specific to children may be applied." It is further

stated that for children who have completed the age of 12 but not 15, and those between 15 and 18, a reduction in penalty shall be applied provided that they have the ability to perceive the legal meaning and consequences of their act and to direct their behavior accordingly. Although disciplinary and judicial procedures are independent of each other, it is preferable that regulations be made in accordance with the best interests of the child.

It is accepted in Turkish law and in the legal systems of some other countries that children under the age of 12 do not possess the ability to comprehend the legal meaning and consequences of their actions or to control their behavior accordingly. Furthermore, special regulations aimed at protecting and treating children have been introduced concerning the trial and punishment of children driven to crime. One such regulation is the "United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)," adopted by the United Nations General Assembly in 1985 (Efe, 2008; Artuk, 1992; Aksay, 1990).

In summary, punishing substance use and addiction—recognized as a disease requiring treatment in children—at the middle school level with the "school transfer penalty" is inappropriate for two reasons. First, according to Article 31 of the Turkish Criminal Code, children between the ages of 10 and 12 bear no criminal responsibility. Similarly, for high school students aged between 12 and 18, it is necessary to determine whether they possess the ability to comprehend the legal meaning and consequences of their actions and to direct their behavior accordingly. However, no such provision exists in the Ministry of National Education regulations on Preschool and Primary Education Institutions or Secondary Education Institutions.

The purpose of punishing children is to deter them from committing the act and to prevent the repetition of behavior considered to be an offense. However, transferring a child who uses substances to another school as a form of punishment will not solve the problem; on the contrary, it may negatively affect the child psychologically, damage their self-perception, and lead to labeling and exclusion. In such cases, what should be done is to ensure that the child receives treatment in cooperation with their family in a confidential manner. Necessary referrals for treatment should be made and monitored in collaboration with healthcare institutions. If the child's parents fail or are unable to fulfill their responsibilities in this regard, health measures can be taken for the child under the Child Protection Law. Additionally, investigating the factors that lead the child to use substances and taking necessary measures accordingly may contribute to resolving the problem.

Research indicates that disciplinary sanctions imposed on children with substance use disorders at the middle and high school levels are not deterrent (Nelsen, Lott, & Glenn, 2000). Moreover, imposing penalties that may negatively affect the child's entire life, when the priority should be treatment, is not compatible with the requirements of modern education. Numerous studies have also demonstrated the negative effects of punishment on students in general (White, 2023; Suvall, 2009).

Not only substance use but also students who receive disciplinary sanctions for violating other school rules may blame their teachers and school administration, experience deterioration in peer relationships, and even exhibit violent behavior toward their environment due to anger. As a requirement of living within a community and society at large, children should be taught from an early age that rules must be followed and that non-compliance will have consequences. However, such sanctions must not harm children's personal, psychological, social, and academic development.

Research shows that it is not possible to prevent substance use and substance use disorders in children through the "school transfer penalty." This is because substance use at an early age may stem from various factors related to family, peer groups, and environment. For example, a study conducted with high school students in Malatya found that "children of parents with democratic attitudes have negative attitudes toward illicit substances, whereas children of parents with authoritarian and overprotective attitudes have more positive attitudes toward such substances" (Aksoy, 2006). First and foremost, the factors that lead the child to use substances must be investigated. As long as these factors persist—and particularly if substance use disorder is not treated—it is very difficult for disciplinary sanctions to have a deterrent effect.

Studies conducted abroad indicate that oppressive and punitive approaches increase behavioral problems among students, leading to rebellion, defiance, resentment, revenge, and feelings of distrust (Skiba & Peterson, 2000; Gordon, 1997). On the other hand, children who feel under the threat of punishment may experience decreased motivation to learn and may even deliberately avoid completing assigned tasks. One of the most significant outcomes is a noticeable decline in academic achievement (Mertoğlu, 2026).

For all these reasons, as in many countries, priority should be given to rehabilitation measures for children at both middle and high school levels who use substances or have developed substance use disorders. This necessitates changes in disciplinary regulations that currently prescribe punishment for students exhibiting substance use disorders in middle and high schools.

Legal Regulations Concerning Middle and High School Students Who Use Substances in Some Countries

In many countries, substance use disorder is recognized as a disease that requires treatment. Legal regulations concerning middle and high school students who use substances vary from country to country and even between states within the same country. For example, in Germany and the United States, these regulations differ by state; the Bavarian Education Law stipulates that the act of using and possessing substances is punishable by expulsion

from school (BayEUG, Art. 86-2-10). In contrast, the Hamburg Education Law states that "educational measures, including assistance provided by the school guidance counselor, school counseling services, or school social support services, should in principle be implemented before disciplinary sanctions" (HmbSG, Art. 49). It further emphasizes that "in cases of persistent educational problems, educational measures—including support from school counseling or social services—should be applied prior to disciplinary sanctions, and disciplinary measures should be combined with educational interventions."

In the Canadian education system, if a child who uses substances or commits another offense poses an unacceptable risk to the safety of others at school, a temporary suspension may be imposed. However, during this period, necessary support is provided to ensure the student's rehabilitation. Before imposing any disciplinary measure, the school principal is required to understand the underlying causes of the behavior, provide counseling and mental health support with parental consent, and assist students in identifying alternative behavioral choices through problem-solving approaches. The principal must also help students cope with conflict and learn how to manage their emotions. In particular, before imposing a suspension of 11 to 20 days, it is required to provide a program that includes both academic and non-academic components aimed at promoting positive behavior, such as anger management, substance abuse counseling, or life skills coaching (Government of Ontario).

A notable and consistently emphasized aspect of the Canadian education system is that, in disciplinary decisions concerning middle and high school students who use illicit substances, if the student lacks the ability to control their behavior or understand the possible consequences of their actions, educational measures—both academic and non-academic—should be implemented instead of disciplinary punishment. No such provision exists in the disciplinary regulations governing middle and high school students in Türkiye. In contrast, from a judicial perspective, while children under the age of 12 cannot be punished under any circumstances, for children over the age of 12 it is required to determine whether they possess the ability to control their behavior and foresee the consequences before imposing penalties.

In Sweden, due to concerns that substance use beginning at an early age may mark the onset of substance use disorder, the idea of criminalizing personal use was considered. However, a study conducted in 2017 with 1,847 children aged 15–17 who used narcotic substances found that those who received rehabilitation measures had lower rates of reoffending compared to those who did not receive such measures. The same study recommended early intervention, personalized support, and a multidisciplinary approach to the prevention of substance use (Glad, Berlin, Bäckman, Forkby, & Wallin, 2025).

In the United States, school-based educational programs aimed at developing strong life skills and resilience are implemented in primary, middle, and high schools to prevent substance use. These programs are designed to build upon one another according to grade level and are continuously reinforced. Research shows that children tend to turn to illicit substances as a way of coping with emotions such as loneliness, boredom, depression, fear, anger, insecurity, and lack of affection. Students with strong life skills are able to manage anger, make healthy decisions, demonstrate empathy, set goals, establish satisfying friendships, and protect themselves; therefore, instead of resorting to illicit substances, they are able to solve their problems in a constructive manner. This resilience is achieved through skills taught at an early age and strengthened throughout adolescence. Life skills are critically important for children's healthy development and their ability to cope with life's challenges (Prevent+Ed, *3rd Grade Building You, Building Me*, https://prevented.org/programs/building-you-building-me-program).

Alternative Methods Beyond Punishment in the Prevention of and Intervention in Substance Addiction

The causes and prevention of substance addiction constitute a highly comprehensive subject. The aim of this study is not to discuss in detail the causes of substance addiction and prevention methods, but rather to present alternative approaches for preventing substance use among children instead of resorting to punishment. This requires a brief review of risk factors. The child's personality, family structure, socio-economic status, academic failure and school absenteeism, adolescence (Zucker, Heitzeg, & Nigg, 2011), and peer environment are among the most significant risk factors.

Curiosity and peer pressure, feelings of helplessness, lack of self-confidence, feelings of worthlessness, and difficulties in coping with anxiety, as well as conditions such as depression and anxiety, may predispose children to substance use. Weak social relationships, difficulties in impulse control, and certain behavioral disorders may also contribute to substance use. One of the most important factors is the absence or weakness of hope for the future. Another contributing factor is the easy accessibility of illicit substances.

The family plays a crucial role in a child's substance use. Children who are not raised in an environment of love and trust from the ages of 0–6 are at psychological risk. Substance use and a criminal history among family members are among the factors that increase the risk of substance use. Research shows that substance use and other criminal behaviors increase among children who have lost their parents or live in separated family environments (Aydoğdu & Olcay, 2013). In particular, poorly managed divorce processes may negatively affect children both materially and emotionally.

Parents, school administrators, and teachers have significant responsibilities in preventing substance use among children and in combating addiction. Research indicates that educating children about the dangers of drug use (e.g.,

DARE – Drug Abuse Resistance Education) and early intervention programs such as "The Courage to Speak Foundation" produce highly positive results in preventing addiction (SAE Institute Canada, Alcohol and Drug Prevention Policy https://canada.sae.edu/alcohol-and-drug-prevention-policy).

It is important that children who use substances are not excluded, labeled, or pushed into loneliness and helplessness. A distinction must be made between substance use and substance addiction. Schools should have a pre-prepared action plan outlining how to respond to students who use substances. In the implementation of this plan, school administrators, guidance counselors, and teachers play a key role. Teachers and parents should be informed by experts regarding "the symptoms that may be observed in students who use substances, approaches to children who use substances, and the procedures to be followed in cases of substance addiction."

Within the scope of combating substance addiction in schools, the proper implementation of the "4B" strategy—comprising the stages of "Informing," "Awareness," "Coping," and "Termination"—requires not only guidance counselors and teachers but also the support of psychologists, psychiatrists, social workers, forensic medicine experts, and families (Turkish Green Crescent Society and Ministry of National Education, 2024).

The Role of Parents, Teachers, and Administrators in Preventing Substance Addiction in Children

In the prevention of substance addiction, the awareness of educators, parents, and students regarding the dangers of substance use is of utmost importance. According to the "2024 Türkiye Drug Report" published by the Ministry of Interior – General Directorate of Security, within the scope of the Turkish Green Crescent's Türkiye Addiction Prevention Education Program, implemented in cooperation with the Ministry of National Education, NGOs, and universities, "awareness training was provided to 14,300,843 students, 451,500 teachers, and 1,605,731 parents during the 2022–2023 period."

In particular, educational programs designed for students emphasize topics such as "Coping with Negative Emotions," "Self-Awareness," "Body Image," and "Peer Relationships" (Önen & Sargın, 2023). The "Family Guide for Protection from Addiction," developed within the scope of the Türkiye Addiction Prevention Education Program, should be made accessible to all parents. This guide includes information for parents on the causes and types of addiction, how addiction affects children, parenting skills, children's developmental stages, and recommendations on how to cope with risks during these stages (Turkish Green Crescent Society, *Family Guide for Protection from Addiction*, 2022).

Rehabilitation in Substance Use Disorder

In rehabilitation, detoxification of the substance from the body is of primary importance. Subsequently, it is a process that involves not only maintaining abstinence through pharmacological or psychosocial interventions but also enabling the individual to return to a functional life. Despite all preventive measures, the treatment of children who develop substance addiction is more challenging. Once addiction develops, the support of parents and educators becomes limited, and children need to be referred to rehabilitation centers.

In Türkiye, there are institutions that provide both inpatient and outpatient treatment services for substance addiction. Within these institutions, and in accordance with the Child Protection Law, children for whom a care or protection order has been issued are admitted to "specialized child homes" to ensure their care, protection, and access to psychological and social support. In ÇEMATEM (Child and Adolescent Alcohol and Substance Addiction Treatment and Education Center) and AMATEM (Alcohol and Substance Addiction Treatment Center), various activities are conducted to engage children. These include sports facilities, animal shelters, hobby areas, and educational and counseling services.

"Drug Treatment Courts," established to reduce substance use disorders and related crimes, play an important role in both prevention and rehabilitation. This court model conceptualizes drug addiction as a health issue. Due to the effectiveness of these courts, first established in the United States (Yüce, 2015), they have become increasingly widespread in many countries, including Scotland, Canada, England, Ireland, Austria, and Belgium (Şahin, 2024). Studies showing that countries and regions with drug treatment courts experience significant reductions in drug use, drug-related deaths, and crime rates compared to those without such courts are promising (Calus, 2023).

Conclusıon And Recommendatıons

The current system of the Ministry of National Education requires that children who use substances or have substance use disorders in middle and high schools be subjected to the disciplinary sanction of "school transfer." However, substance use disorder is recognized by experts in the field as a brain disease. It is not possible to prevent a disease through punishment. Moreover, research indicates that disciplinary sanctions are not effective in preventing substance use disorders; on the contrary, they may contribute to various problem behaviors.

Since substance use disorder is both a medical condition and children have limited capacity to understand the meaning and consequences of their actions due to their developmental stage, they should not be subjected to punitive measures, either judicially or disciplinarily. For these reasons, in accordance with Article 55-c-16 of the Ministry of National Education Regulation on Preschool and Primary Education Institutions and Article 164-2-k of the Ministry of National Education Secondary Education Institutions Regulation, it is necessary— in order to

protect the child's health and best interests— to abolish the "school transfer penalty" for children who use substances and instead introduce regulations that direct them toward rehabilitation.

Of course, age-appropriate measures should be applied for students who do not comply with school rules. However, it is not appropriate to impose the "school transfer" sanction on middle and high school students who use substances or have substance use disorders for the reasons explained above. Nevertheless, in cases where access to substances within the school environment is easy or where peers who use substances are present, a school transfer may be implemented with parental consent, provided that it is not considered a disciplinary punishment.

For children who use substances or have substance use disorders, many measures can be implemented through cooperation among schools, families, healthcare institutions, law enforcement, and judicial authorities. Rehabilitation-based interventions can be incorporated. Research has shown that such measures are significantly more effective than punitive approaches. The reasons why a child uses substances, how access is obtained, and the familial, environmental, and individual factors involved must be carefully investigated, and appropriate preventive measures must be implemented.

Curiosity and peer pressure, feelings of helplessness, lack of self-confidence, feelings of worthlessness, difficulties in coping with anxiety, as well as depression and anxiety, may predispose children to substance use. Weak social relationships, difficulties in impulse control, certain behavioral disorders, and lack of hope for the future may also contribute to substance use.

The way teachers and parents communicate with children who use substances or have substance use disorders is critically important. In-service training may be provided to teachers and parents on creating a healthy home and school environment and on appropriate approaches to children. Having a pre-prepared action plan in schools regarding how to respond to students who use substances may provide significant practical support to teachers and administrators.

Furthermore, as in some countries, establishing specialized drug treatment courts for children who use substances would enhance the effectiveness of these courts in relation to minors. Ensuring treatment and close monitoring of substance users—particularly those with addiction—through a multidisciplinary and therapeutic approach, rather than traditional punitive methods, may also serve as a viable solution for our country.

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